IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PIL NO. 143 OF 2004

Shantiban Co-operative Housing Society Ltd. ... Petitioner

Versus

Municipal Corporation of the City of Thane & Ors. ... Respondents

Mr. A.V. Anturkar for the Petitioner

Mr. R.S. Apte for Respondent No. 1

Mr. Vijay P. Sali and Mr. R.P. Behere for Respondent Nos. 2 to 12

Mr. P.N. Joshi for Respondent No. 13.

CORAM: DALVEER BHANDARI, C.J., &
S.A. BOBDE, J.
DATE: MAY 4, 2005.

P.C.

1. This petition has been filed by Shantiban Co-operative Housing Society Ltd., in which a prayer has been made that the Municipal

Corporation be directed to remove respondent Nos. 2 to 12 from the D.P. Road, and make available the same, which is complete on both sides, but which is not capable of being used only on account of continued illegal encroachment by respondent Nos. 2 to 12. The petitioner has also annexed photographs, showing that on the public road there is encroachment by respondent Nos. 2 to 12. Admittedly, respondent Nos. 2 to 12 are rank trespassers and their unauthorised construction is in the middle of the road.

2. In these proceedings, we are not adjudicating the rights of the encroachers to get alternate accommodation. However, the developer – respondent No. 13 – has given undertaking to the Court that pursuant to the Corporation's letter dated 29th December, 2003 to the petitioner, he is ready to construct on the land at the Corporation Rehabilitation Layout at MMRDA, as per the plan prepared by the Corporation. In this letter, it is mentioned that the construction is going to take 1 to $1^{1}/_{2}$ months, and until then, respondent Nos. 2 to 12 would be accommodated in the Corporation's Transit Camp at MMRDA. The learned counsel appearing for the developer

submits that immediately after getting the plans approved by the Corporation, he would construct the building at his costs and would accommodate respondent Nos. 2 to 12.

3. We direct that meanwhile, respondent Nos. 2 to 12 shall be accommodated in the Transit Camp at MMRDA by the Corporation. We direct respondent Nos. 2 to 12 to shift to the Transit Camp within four weeks from today.

4. The learned counsel appearing for the Corporation undertakes to give the draft plans to the developer within two weeks from today.

5. In case respondent Nos. 2 to 12 do not vacate, the Corporation would be at liberty to remove them from the portion of the road which they are occupying.

6. The accommodation to be given to respondent Nos. 2 to 12 would be on the usual terms.

7. No further directions are necessary. This petition is accordingly

disposed of.

CHIEF JUSTICE

S.A. BOBDE, J.